In the High Court for the States of Punjab and Haryana, at Chandigarh.

C.R.No.1128 of 2007 (O&M)
Decided on March 01,2007.

Binder Singh -- Petitioner

Babu Ram vs. -- Respondent.

Present: Mr. Surinder Garg,Advocate, for the petitioner

Pritam Pal,J: (Oral)

This Civil Revision,under Article 227 of the Constitution of India, has been filed by the petitioner/defendant, with a prayer that respondent/plaintiff-Babu Ram, be allowed to be recalled for his further cross-examination, in a suit pending before the trial Court.

Without going into further details, suffice it to say that the trial Court had dismissed the application moved by the petitioner under Order 18 Rule 17 of Code of Civil Procedure, for recalling Babu Ram, plaintiff/respondent,vide order dated January 19,2007, by observing thus:-

" I have heard the learned counsel for the parties and have gone through the file. The perusal of the file shows that the plaintiff in this case was examined in chief on 19.8.2002 and his cross examination was conducted on 30.3.2005 on which date the evidence of the plaintiff was closed. Thereafter, the defendant has also examined three Dws and now the defendant has filed the present application on 19.9.2006 that is after about 1-½ years of cross examination of the plaintiff. Perusal of

cross examination of the plaintiff further shows that he has been fully cross examined running into two pages on behalf of the defendant. So, it cannot be said that the plaintiff could not be cross examination at length and any question remained to be put to him. Moreover, the application having been filed at a belated stage, appears to have been filed with a view to delay the proceedings in the case and in view of the above discussions, the application being without any merits, is dismissed".

Now the contention of learned counsel for the petitioner is that some material question could not be put to PW Babu Ram-plaintiff,when he was cross examined on 30.3.2005 by counsel for the petitioner. This itself cannot be a ground for recalling the aforesaid witness, who is stated to have already been cross examined at length. If any point has not been put to the witness in the cross examination, that cannot be made the basis for recalling the said witness and that too, after such a long period of his cross examination.

In the totality of the facts and circumstances as stated above, this Court also does not find any illegality or irregularity in the impugned order.

Hence, this Civil Revision stands dismissed in *limine.*

March 01,2007 (Pritam Pal)
RR Judge